



NATIONAL ASSOCIATION OF CONSUMER AGENCY ADMINISTRATORS

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October 6, 1994

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: **CC Docket No. 93-22**
Policy and Rules Implementing the Telephone
Disclosure and Dispute Resolution Act

COMMENTS

The National Association of Consumer Agency Administrators (NACAA) appreciates this opportunity to comment on the measures which need to be implemented to protect consumers from abusive practices of information providers who use 800 telephone numbers. We applaud the FCC's determination that further regulatory efforts are needed to curtail continuing problems caused by unscrupulous information providers in this marketplace. Based on the experiences of our member agencies, we strongly feel that 800 number telephone calls should be prohibited from being charged on telephone bills.

ABOUT NACAA

NACAA is a membership organization comprised of local, state and federal consumer protection agencies located in the United States and several foreign countries. NACAA is involved in providing information and commenting on consumer issues, protecting consumer rights, and advocating for the interests of consumers. Our member agencies provide direct constituent services:

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advising consumers and businesses about their rights and responsibilities, mediating consumer disputes, enforcing consumer laws and regulations, and conducting public education.

BACKGROUND

In 1993, NACAA documented ongoing problems with 800 number calls in its written testimony to both the FCC and FTC regarding the proposed regulations under the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA). Our agencies had received thousands of complaints on pay-per-call type services and we urged that regulations offer strong protections for consumers and clear guidelines for legitimate information providers.

Whereas the TDDRA regulations generally prohibit charges for calling 800 numbers, a service with an existing presubscription agreement is exempt. The unfortunate loophole created by this exemption has been filled by companies offering traditional 900 number type services on 800 numbers. The public perceives 800 numbers as free and is misled by companies trying to hid pay-per-call services under the rubric of 800 numbers.

800 NUMBER PROBLEMS

NACAA members have received first-hand information regarding consumers' problems and concerns with 800 telephone numbers, including:

- Complaints about undisclosed fees for 800 number information services;
- Charges for calling 800 numbers where there is no presubscription agreement;
- Unauthorized calls to 800 numbers which incur huge bills for parents and businesses; and

- The mistaken impression that service would be cut off if payment is not made for unauthorized 800 number calls.

Consumers who are lured into calling 800 numbers advertised for a variety of services are often surprised to discover that they have incurred charges ranging from \$65 to several hundred and, in some cases, over \$1,000 on their telephone bills. Solicitations in magazines, newspapers, and post cards do not reveal that there will be any charges nor disclose what the costs are. Psychic and adult lines have proliferated in this new 800 utopia. Many complaints involve teenagers, hotel guests and company employees who call "adult" 800 lines. By the use of automatic number identification (ANI), undisclosed charges can be assessed to the numbers from which the calls originate, resulting in huge bills for unsuspecting parents and businesses.

The Consumer Fraud Bureau of the Ulster County District Attorney's Office is representative of our member agencies' experiences with 800 numbers. They report that their investigations into these consumer complaints reveal that no authorization existed in the form of a presubscription agreement or other like arrangement. In all cases where an 800 number call incurred undisclosed charges investigated by Ulster's Consumer Fraud Bureau, the Bureau found that no prescription agreement existed. In one case, no one was home at a consumer's home when an 800 call was allegedly made by the subscriber. Consumers are also routed automatically from 800 numbers to pay-per-call services without their knowledge by the use of activation numbers and other means.

Some long distance telephone companies, who provide the 800 lines, and local telephone exchanges, who often bill for the information providers, have acknowledged these abusive practices and agreed to begin reversing charges. MCI no longer provides pay-per-call 800 number lines where the billing is based on ANI. AT&T immediately "impounds" companies' 800 numbers when it discovers these types of problems. Bell Atlantic, Bell South, and NYNEX now refuse to bill for 800 numbers. Some local exchanges, such as Southwestern Bell, U.S. West, and Pacific Telesis, have set more stringent

guidelines for the information providers for whom they bill. Yet, even with these companies' emerging recognition of substantial abuses in the 800 industry, fraudulent operators still use the 800 gateway to avoid existing pay-per-call consumer protections.

PROHIBIT 800 CHARGES ON TELEPHONE BILLS

We urge the Commission to prohibit the use of telephone companies as billing agents for 800 number information providers; the exemption granted for 800 number charges with presubscription agreements does not require telephone companies to bill for such charges. For decades the public has accurately perceived that 800 lines are free. Yet, our agencies are besieged with complaints from consumers who use 800 lines and are shocked to see huge telephone bills for services they did not know they incurred. The FCC negates its own distinction between 800 and 900 numbers by waiving the pay-per-call protections for 800 numbers with presubscription agreements. Telephone billing for 800 numbers also substantially weakens the 900 blocking option by giving consumers the false impression that they have availed themselves of an important protection which insulates them from pay-per-call charges only to discover too late that they have not and cannot fully protect themselves from these types of calls.

We are concerned that the Commission's proposal to require verification that a subscriber to an originating line has a valid presubscription agreement to purchase information services will not be effective. A far simpler and more direct method of curtailing these abuses would be to require information providers to avail themselves of other collection methods that retailers in many industries currently utilize and thus prevent them from using the telephone bill as a collection method.

It has always been our position that consumers must receive a written and signed copy of any agreement into which they enter. Whereas, we strongly advocate the requirement for a signed contract in presubscription agreements that are billed through non-telephone billings, we urge the Commission to ban

telephone billing collections for these types of services because of the greater potential for abuse.

UNADDRESSED ABUSES

As the regulatory system tightens its controls on current abusive practices, we must anticipate the next generation of problems. Our agencies report a growing problem with 800 number transfers to international telephone lines whose rates are not regulated and not disclosed. Consumers do not recognize the international area codes as such and have no idea that the calls cost and that their cost is astronomical. Consumers do not easily recognize these charges as related to 800 numbers because they appear in the long distance sections of their bills. In one telling example, the Detroit Consumer Affairs Department reports receipt of a complaint from a telephone subscriber whose 12 year old son had made \$1,234.77 worth of calls to the Dominican Republic, Guyana, Nicaragua, Germany, and a tiny island off the west coast of Africa. The son unknowingly incurred the charges. He thought the calls were 800 numbers and that 800 numbers were toll free.

One regulatory solution would be to prohibit referrals by 800 numbers to international numbers. However, it would even be more effective to initiate rulemaking to allow for blocking on abusive international pay-per-call type numbers using ANI or similar signaling technologies. Carriers should be able to block specific numbers which have been identified with ongoing and unreasonable charges. By blocking these numbers, the burden could be shifted to the information providers if they want to receive calls from the United States. The information providers would then conform to the Congressional intent that callers should be protected from abusive practices involving undisclosed, misrepresented, or hidden fees.

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We appreciate the opportunity to comment and your consideration of our views on this important telecommunications problem that so adversely affects America's consumers.

Sincerely,

A handwritten signature in cursive script, reading "Lawrence A. Breeden".

Lawrence A. Breeden
President

cc: Susan Grant, NACAA Executive Director
Susan Giesberg, Chair, NACAA Public Policy Committee
Members of the NACAA Executive Board